

Application No.: 10/802,581
Amendment and Response dated December 27, 2005
Reply to Office Action of September 28, 2005
Docket No.: 903-101
Page 5

Remarks/Arguments:

Introduction

Claims 1-16 are pending. Claims 10 and 15 have been non-narrowingly amended to correct a minor typographical error therein. No new matter is introduced with the amendments.

Independent claim 1 is directed to a fibre-reinforced building article having fire protection properties. The fibre-reinforced building article comprises a matrix of a binding material comprising an aluminous cement, a carboxylic ether polymer based plasticizer, a fugitive material, filler, and alkali-resistant glass fibers, and at least one fiber layer of alkali-resistant glass fibers, incorporated in said matrix.

Independent claim 10 is directed to a method for manufacturing a fibre-reinforced building article having fire protection properties. The method comprises the steps of casting an aqueous mixture of binding material comprising an aluminous cement, a fugitive material, filler, alkali-resistant fibers and a carboxylic ether polymer based plasticizer, into a mould, and positioning additional alkali-resistant glass fibers in at least one fiber layer in the mould during casting, in order to obtain a preform and allowing the thus obtained preform to dry.

Section 103 Rejections

Claims 1-9 are rejected under 35 U.S.C § 103(a) as allegedly being unpatentable over U.S. Patent No. 4,831,062 to von Bonin (hereinafter "von Bonin") in view of European Patent Application No. EP 1 001 000 A1 to Ermanno Magni (hereinafter "Magni"). Claims 10-16 are rejected under 35 U.S.C § 103(a) as allegedly being unpatentable Magni. Applicant respectfully traverses.

von Bonin is directed to intumescent materials. As acknowledged by the examiner, von Bonin fails to teach or suggest the use of an aluminous cement with its intumescent materials. The lack of any teaching to this aspect of the present invention, however, is not the only deficiency of von Bonin.

A further deficiency is that von Bonin fails to teach or suggest the use of a carboxylic ether polymer based plasticizer. For example, von Bonin specifically teaches that suitable plasticizers for its intumescent materials include plasticizers "of the phosphoric acid ester and/or phosphonic acid ester". (von Bonin, column 4, lines 14-16).

Still further, von Bonin describes the use "glass, particularly in bead or fibre form". (von Bonin, column 3, lines 57-58). von Bonin, however, fails to teach or suggest the use of alkali-resistant glass fibers and at least one fiber layer of alkali-resistant glass fibers in its intumescent materials.

Moreover, von Bonin teaches away from the present invention because von Bonin describes materials with long hardening times as being undesirable. (von Bonin, column 1, lines 15-26). The materials of von Bonin are described as being cured in a short period of time, for example within 10 minutes. (von Bonin, column 8, lines 6-7). Indeed, von Bonin describes that its intumescent materials are specifically formulated to cure even within just seconds. (von Bonin, column 5, lines 20-21). Such low cure times for the intumescent materials of von Bonin are a primary concern of von Bonin because its intumescent materials are used as a coating or as an article having such a coating. (von Bonin, column 5, lines 36-53).

In contrast to the rapid cure time of von Bonin, the present invention used a carboxylic ether polymer based plasticizer for, *inter alia*, extending the cure time, thereby extending the processing time such as from about 10 minutes to about 90 minutes, as described in the subject Specification at paragraph [0005]. Thus, von Bonin teaches the selection and use of materials

Application No.: 10/802,581
Amendment and Response dated December 27, 2005
Reply to Office Action of September 28, 2005
Docket No.: 903-101
Page 7

in direct contrast to the present invention. Any modification of von Bonin, in an attempt to arrive at the present invention, would destroy the purpose and intent of von Bonin, i.e., intumescent materials with reduced or shortened cure times.

Thus, von Bonin fails to teach or suggest the present invention.

Except for the use of aluminous cement in fire protection materials, Magni fails to cure the deficiencies of von Bonin. For example, Magni fails to teach or suggest use of a carboxylic ether polymer based plasticizer. Further, Magni fails to teach or suggest use the use alkali-resistant glass fibers and at least one fiber layer of alkali-resistant glass fibers. Moreover, as described in the Specification at paragraphs [0003] to [0005], particularly paragraph [0005], compositions based on Magni have proved ineffective for use with the present invention because they also cured in very short time periods, similar to von Bonin.

Thus, von Bonin and Magni, individually or in combination, fail to teach or suggest the present invention of independent claims 1 and 10 because they fail to teach or suggest, *inter alia*, the use of a carboxylic ether polymer based plasticizer. Therefore, reconsideration and withdrawal of the rejections of independent claims 1 and 10, and all claims dependent therefrom, are respectfully requested.

Summary

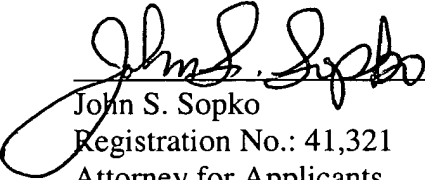
Therefore, Applicants respectfully submit that independent claims 1 and 10, and all claims dependent therefrom, are patentably distinct. This application is believed to be in condition for allowance. Favorable action thereon is therefore respectfully solicited.

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number given below.

Application No.: 10/802,581
Amendment and Response dated December 27, 2005
Reply to Office Action of September 28, 2005
Docket No.: 903-101
Page 8

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Respectfully submitted,


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